

United States Court of Appeals

For the Eleventh Circuit

05 JUL -8 AM 11:36
U.S. DISTRICT COURT
N.D. OF ALABAMA

No. 04-11010

District Court Docket No.
03-00147-CR-S-M

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

Apr 20, 2005

THOMAS K. KAHN
CLERK

UNITED STATES OF AMERICA,

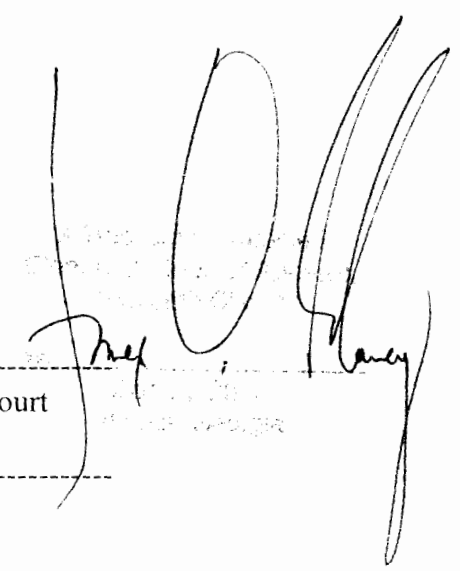
Plaintiff-Appellee,

versus

JOHN DAVID FLOYD,

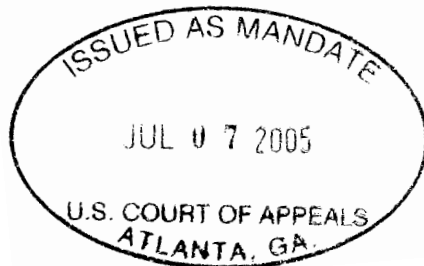
Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Alabama



J U D G M E N T

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.



Entered: April 20, 2005
For the Court: Thomas K. Kahn, Clerk
By: Jackson, Jarvis

[DO NOT PUBLISH]

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170-1-1-1-1-1

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 04-11010

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
APRIL 20, 2005
THOMAS K. KAHN
CLERK

D. C. Docket No. 03-00147-CR-S-M

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN DAVID FLOYD,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Alabama

(April 20, 2005)

Before EDMONDSON, Chief Judge, DUBINA and HULL, Circuit Judges.

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PER CURIAM:

BACKGROUND

John Floyd was charged with five counts of witness tampering in violation of 18 U.S.C. § 1512(b)(1). He was acquitted of Count 1, but a jury found him guilty of the other charges. The Court entered a judgment consistent with the jury verdict. Floyd now appeals on various grounds.

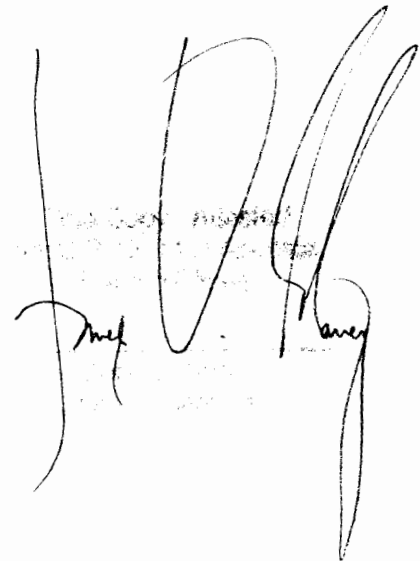
DISCUSSION

Floyd raises the following issues on appeal: (1) whether the Government failed to present sufficient evidence to support his conviction; (2) whether the district court erred in its instructions to the jury on the elements of the offense, the safe harbor defense, and the meaning of “corruptly persuades” under 18 U.S.C. § 1512(b); (3) whether the district court erred in denying his motion in limine

requesting the redaction of portions of his taped conversations referring to race; (4) whether the district court erred in denying his motion for a new trial on grounds the Government's delayed disclosure of information pertaining to a witness violated Giglio v. United States, 92 S.Ct. 763 (1972); (5) whether he is entitled to a new trial because of cumulative error; and (6) whether the district court erred in applying the abuse of trust enhancement.

After a review of the record and consideration of Floyd's arguments, we conclude that no reversible error has been presented and affirm the district court's judgment.

AFFIRMED.

A handwritten signature in black ink, appearing to read "J. Michael Luttig". The signature is written in a cursive, flowing style with large, sweeping loops. It is positioned in the lower right area of the page, below the "AFFIRMED." text.

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

05 JUL - 8 AM 11:33
For rules and forms visit
www.ca11.uscourts.gov

July 07, 2005

Perry D. Mathis
Clerk, U.S. District Court
1729 5TH AVE N STE 140
BIRMINGHAM AL 35203-2050

Appeal Number: 04-11010-BB

Case Style: USA v. John David Floyd
District Court Number: 03-00147 CR-S-M

The enclosed certified copy of the judgment and a copy of this court's opinion are hereby issued as the mandate of this court.

Also enclosed are the following:

- Original Exhibits, consisting of: two folders, one psi
- Original record on appeal or review, consisting of: ten volumes

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

A copy of this letter, and the judgment form if noted above, but not a copy of the court's decision, is also being mailed to counsel and pro se parties. A copy of the court's decision was previously mailed to counsel and pro se parties on the date it was issued.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: James O. Delaney (404) 335-6113

Encl.

05 JUL -8 AM 11:35

Perry D. Mathis
Clerk, U.S. District Court
1729 5TH AVE N STE 140
BIRMINGHAM AL 35203-2050

July 07, 2005

Appeal Number: 04-11010-BB
Case Style: USA v. John David Floyd
District Court Number: 03-00147 CR-S-M

TO: Perry D. Mathis
CC: Stephen Andrew Strickland
CC: Michael Boysie Billingsley
CC: Miles M. Hart
CC: Sandra J. Stewart
CC: Joyce White Vance
CC: Administrative File